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Jose A. Higuera, M.D.

Case No. MD-09-1210A

**INTERIM ORDER FOR PRACTICE
RESTRICTION AND CONSENT TO SAME**

INTERIM CONSENT AGREEMENT

Jose Higuera, M.D., ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Order for Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 12358 for the practice of allopathic medicine in the State of Arizona.

3. On September 21, 2009, the Board received a complaint alleging that Dr. Higuera had inappropriately touched a female patient during an examination. Subsequently, new information was received from the Phoenix Police Department indicating previous complaints of a sexual nature had been filed. On November 4, 2009, the Board issued an Interim Order for a Psychosexual Evaluation. On January 29, 2010, Board staff received the recommendations from the evaluation facility. The evaluators concluded that Respondent was not truthful in his response that he had not inappropriately touched a female patient and is at risk for further professional sexual misconduct.

4. The Executive Director has consulted with investigative staff and the Board's medical consultant, who has reviewed the case and agrees that a consent agreement is appropriate.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Executive Director may enter into a consent agreement with a physician if there is evidence of danger to the public health and safety pursuant to A.R.S. § 32-1405(C)(25) and § 32-1451(F); A.A.C. R4-16-504.

3. Based on the information in the Board's possession there is evidence that if Respondent were to practice medicine in Arizona there would be a danger to the public health and safety.

ORDER

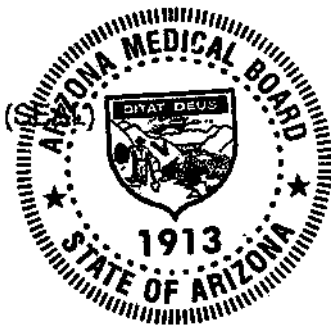
IT IS HEREBY ORDERED THAT:

1. Respondent shall not practice clinical medicine or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until Respondent applies to the Board and receives permission to do so.

2. This is an interim order and not a final decision by the Board regarding the pending investigative file and as such is subject to further consideration by the Board.

3. This interim order supersedes the interim order for practice restriction dated December 21, 2009.

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2 DATED AND EFFECTIVE this 27th day of MAY, 2010.
3



ARIZONA MEDICAL BOARD

9
10 By 
11 Lisa S. Wynn
12 Executive Director
13

14 **CONSENT TO ENTRY OF INTERIM ORDER**

15 1. Respondent has read and understands this Interim Order for Practice
16 Restriction and Consent to the Same and the stipulated Findings of Fact, Conclusions of
17 Law and Order ("Interim Order"). Respondent acknowledges he has the right to consult
18 with legal counsel regarding this matter.

19 2. Respondent acknowledges and agrees that this Interim Order is entered
20 into freely and voluntarily and that no promise was made or coercion used to induce such
21 entry.

22 3. By consenting to this Interim Order, Respondent voluntarily relinquishes any
23 rights to a hearing or judicial review in state or federal court on the matters alleged, or to
24 challenge this Interim Order in its entirety as issued, and waives any other cause of action
25 related thereto or arising from said Interim Order.

4. The Interim Order is not effective until approved and signed by the
Executive Director.

5. All admissions made by Respondent are solely for final disposition of this
matter and any subsequent related administrative proceedings or civil litigation involving
the Board and Respondent. Therefore, said admissions by Respondent are not intended

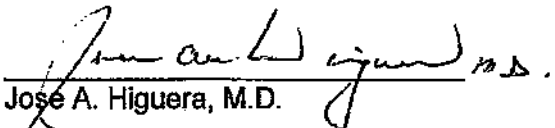
1 or made for any other use, such as in the context of another state or federal government
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
3 any other state or federal court.

4 6. Upon signing this Interim Order, and returning this document (or a copy
5 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
6 entry of the Interim Order. Respondent may not make any modifications to the document.
7 Any modifications to this original document are ineffective and void unless mutually
8 approved by the parties.

9 7. This Interim Order is a public record that will be publicly disseminated as a
10 formal action of the Board and will be reported to the National Practitioner's Data Bank
11 and on the Board's web site.

12 8. If any part of the Interim Order is later declared void or otherwise
13 unenforceable, the remainder of the Interim Order in its entirety shall remain in force and
14 effect.

15 9. Any violation of this Interim Order constitutes unprofessional conduct and
16 may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
17 probation, consent agreement or stipulation issued or entered into by the board or its
18 executive director under this chapter") and 32-1451.

19  DATED: 5/27/10
20 Jose A. Higuera, M.D.
21

22 EXECUTED COPY of the foregoing mailed
23 this 27th day of May, 2010 to:

24 Stephen Myers
25 Meyers & Jenkins
One E. Camelback Rd., Suite 500
Phoenix, AZ 85012

1 ORIGINAL of the foregoing filed
2 this 7th day of May, 2010 with:

3 Arizona Medical Board
4 9545 E. Doubletree Ranch Road
5 Scottsdale, AZ 85258

6 Chris Sandoz

7 Arizona Medical Board Staff
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